

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107**

**NOTICE OF POTENTIAL LIABILITY, NOTICE OF REMOVAL RESPONSE ACTIVITY AND
OFFER TO NEGOTIATE FOR REMOVAL ACTION
URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
VIA TELEFAX AND CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

May 24, 1991

Mr. Michael Veysey, Vice President
General Counsel and Secretary
Gould Inc.
34129 Curtis Boulevard
East Lake, OH 44095

Re: Marjol Battery Site ("Site") in
Throop, Lackawana County, Pennsylvania

Dear Mr. Veysey:

This letter confirms notification of potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9607(a), as amended ("CERCLA"), that Gould Inc. ("Gould"), may incur or may have incurred with respect to the above-referenced site. This letter also notifies Gould of forthcoming removal activities at the site which Gould may be asked to perform or finance.

NOTICE OF POTENTIAL LIABILITY

The United States Environmental Protection Agency ("EPA") has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the above-referenced site. EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the site. Unless EPA reaches an agreement under which a Gould will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. Sections 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6973 ("RCRA"), and other laws, potentially responsible parties ("PRPs") may be obligated to implement response actions deemed necessary by EPA to protect health, welfare or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the site. Such actions and costs may include, but are not limited to, expenditures for investigations, planning, response, oversight, and enforcement activities. In addition, PRPs may be liable for damages to natural resources. EPA may issue an administrative order pursuant to Section 106(a)

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of CERCLA to require PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$25,000 per day, under Section 106(b) of CERCLA, or imposition of treble damages, under Section 107(c)(3).

EPA has evaluated information in connection with the Site. Based on this information, EPA believes that Gould is a PRP with respect to this site. PRPs under CERCLA include current owners and operators of the site, owners and operators at the time of disposal, as well as persons who arranged for disposal or treatment of hazardous substances sent to the site, or persons who accepted hazardous substances for transport to the site. By this letter, EPA notifies Gould of its potential liability with regard to this matter and encourages Gould to voluntarily perform or finance those response activities that EPA determines are necessary at the site.

SITE RESPONSE ACTIVITIES

At present, EPA is planning to conduct the following activities at the site:

- a. excavate soils in residential properties that have not been addressed by previous actions at the Site impacted by lead contamination from the Site with soil lead concentrations greater than 500 parts per million ("ppm") ;
- b. excavate soils in residential properties impacted by lead contamination from the Site with average soil lead concentrations between 200 to 300 ppm or greater, in order to reduce soil lead concentrations to between 200 to 300 ppm;
- c. address lead contamination in the interiors of residences effected by soil contamination in a. and b., above;
- d. restore properties affected by activities pursuant to a., b. and c., above;
- e. properly dispose of lead contaminated soils and other wastes generated pursuant to a., b. and c., above.

DECISION NOT TO USE SPECIAL NOTICE

Under CERCLA Section 122(e), EPA has the discretionary authority to invoke special notice procedures to negotiate formally the terms of an agreement between EPA and PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the site while formal negotiations between EPA and the PRP or PRPs are conducted.

In this case, EPA has decided not to invoke the Section 122(e) special notice procedures. It is EPA's general policy not to use the special notice procedures for Removal Response actions. However, EPA may choose to do so: if there is a 6-month planning lead time after the decision to respond and prior to the initiation of the action; if the public health risk does not require response within the 6 month time period; if the PRP has given a prior verbal commitment to negotiate; and, if other circumstances support the use of the moratorium. Since the planning lead

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time prior to the initiation of this response action is less than 6 months; since immediate action is required to address the potential public health threat; and since Gould has already notified EPA that it will not voluntarily undertake additional residential soil excavation, special notice procedures will not be used. Furthermore, Gould has been aware of EPA's intentions at the Site and has had opportunity to negotiate with EPA and provide input into the decision making process through submission of information for the Administrative Record. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium, but will initiate the response action as planned if such discussions do not lead to settlement expeditiously.

DEMAND FOR PAYMENT

With this letter, EPA demands that Gould reimburse EPA for its costs incurred to date, and encourages Gould to voluntarily negotiate an administrative order by consent in which Gould agrees to perform the response action instead of EPA.

In accordance with CERCLA, EPA already has undertaken certain actions and incurred certain costs in response to conditions at the site. These response actions include, but are not limited to, Site investigation, PRP oversight and preparation and conduct of enforcement activity at the Site. Gould is potentially liable for these costs plus interest and Gould is potentially liable for additional costs plus interest if EPA conducts additional activities at the site.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. § 9613(k), EPA must establish an administrative record that contains documents that form the basis of EPA's decision on the selection of a response action for a site. The administrative record files, which contain the documents related to the response action selected for this site, will be available to the public for inspection and comment. The primary location will be the EPA Regional office. The administrative records files will also be made available at a location in Throop. The administrative records files will be made available after EPA undertakes some further administrative action regarding the Site in a time and manner consistent with EPA policy.

PRP RESPONSE AND EPA CONTACT

By letter dated March 7, 1991, and during several previous meetings and conversations, as well as in other documents submitted to EPA by Gould, Gould has indicated that it will not voluntarily undertake additional Removal Response actions such as those requested herein. Based upon these communications, it is EPA's understanding that Gould is unwilling to negotiate this matter with EPA. However, if EPA is incorrect in this understanding and Gould is, in fact, willing to negotiate in good faith the conduct of further Removal Response actions at the Site, Gould is encouraged to contact EPA by 5:00 p.m. (eastern daylight savings time) June 8, 1991. The response should be in writing and should indicate Gould's willingness to negotiate those actions cited herein. If EPA does not receive a timely response, EPA will assume Gould does not wish to negotiate a resolution of its liabilities in connection with the response, and that Gould has declined any voluntary involvement in performing the response activities. Gould may be held liable under Section 107 of CERCLA for the cost of the response activities EPA performs at the site and for

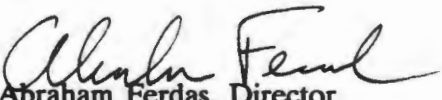
any damages to natural resources and EPA may issue an administrative order pursuant Section 106(a) of CERCLA as outlined above.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein. Because EPA's On-Scene Coordinator for the Site, Mr. William D. Steuteville, is unavailable during this period, your response to this notice letter should be sent to:

Ms. Karen M. Wolper, Chief
U.S. Environmental Protection Agency
Removal Enforcement Section (3HW33)
841 Chestnut Building
Philadelphia, PA 19107
(215) 597- 8751

If you have any questions please contact Ms. Wolper at (215) 597-6678 or have your legal representative contact Rosanne Mistretta, Assistant Regional Counsel at (215) 597-8069.

Sincerely,


Abraham Ferdas, Director
Office of Superfund
Hazardous Waste Management Division

cc: Rosanne Mistretta, Esq.
Thomas Dent, Esq.
Kate Crowley